

ception" and making liable to prosecution any person who "shall assist, abet or counsel another to commit such an offense" was questioned in the case of *Tileston v. Ullman*, 129 Conn. 84, 26 Atl. (2d) 582, decided May 22, 1942, by the Connecticut court and an appeal was taken to the Supreme Court of the United States from the decision upholding the validity of the statute.

The plaintiff in the case, a licensed physician, brought an action in the state court for a judgment interpreting the above statute and declaring it unconstitutional if it should be construed to make it unlawful for him to prescribe the use of contraceptive devices for married women living with their husbands who came to him as patients in cases in which his professional judgment dictated that such treatment be given in order to preserve the life or health of the woman patient. Three cases were specified by the physician, in each of which the patient suffered from some physical disability, such as high blood pressure, tuberculosis or a generally weakened condition as a result of previous pregnancies, which would be seriously and dangerously affected by the patient becoming pregnant. The plaintiff physician requested the state court to imply an exception in the stated law to allow the prescription of contraceptives in those cases where it was necessary to preserve the life or health of the patient and in support of this construction of the law advanced the theory that if the law were not so interpreted the Connecticut statute should be held unconstitutional as unreasonable and violative of the due process of law clause of the Fourteenth Amendment. In a previous case, the court had refused to construe the section in question as allowing a duly licensed physician to prescribe the use of contraceptives where "the general health and well being of the patient require it." In the instant case, the court was asked, however, to adopt a construction of the statute which would permit the prescription and use of contraceptives in cases where not only the general health of the patient was involved but also there was imminent danger of loss of life, the need for such action being more obvious in such cases.

The Connecticut statute was adopted originally in 1879 and the court recognized that during the intervening period a considerable change had taken place in the views of a great number of people on the subject. Notwithstanding this change in social outlook, the court refused to read any such exception into the statute and clearly held that even in cases where the life or health of a patient might be seriously endangered, a Connecticut physician would be subject to criminal prosecution for advising such a patient in the use of any means to prevent conception and the resulting pregnancy.

The plaintiff physician had argued that such a construction of the statute would be violative of the due process of law clause because it would be unreasonable to forbid the prescription of con-

traceptives in cases where professional opinion was unanimous to the effect that the safest medical treatment which could be prescribed for a given patient would be to advise of proper methods of preventing conception which can be used safely and effectively and thus to avert the unfortunate consequences which might flow from pregnancy. It was pointed out, however, that there was another remedy of certain result and that was to advise complete abstinence. The court said that the reasonableness of this latter course was a question for the legislature and until such time as the legislature chose to act by amending the law the court could not sanction conduct in direct conflict with the words of the statute.

On appeal to the United States Supreme Court in *Tileston v. Ullman*, 87 Law Ed. No. 8, p. 443, it was held on February 1, 1943, that the plaintiff physician had no standing in court to question the constitutionality of the statute because the sole constitutional attack under the Fourteenth Amendment had been confined to an allegation that the law as interpreted might deprive the patients of their lives. Since the patients were not parties to the action, the court ruled that the physician had no standing in court to secure an adjudication "of his patients' constitutional right to life, which they do not assert in their own behalf."

In view of this ruling unfortunately the court did not consider it necessary to pass upon the general validity of the Connecticut statute. Consequently, it is still law in Connecticut that even though a woman patient's life would be seriously endangered by pregnancy, a physician is not allowed to prescribe or advise her in the use of contraceptives.

LETTERS †

Concerning San Francisco Chapter of Pan American Medical Association:

PAN AMERICAN MEDICAL ASSOCIATION

San Francisco, March 29, 1943.

At a recent business meeting of the Association, the following officers were elected: President, Harry Alderson; Vice-President, John P. Strickler; Treasurer, Edmund Butler; Secretary, Salvatore Lucia. Regional Administrators of California: S. H. Babington, Berkeley; Junius B. Harris, Sacramento; Charles P. Mathé, San Francisco; Albert Soiland, Los Angeles; and Francis Scott Smyth, San Francisco.

Last fall, a joint reception was held at the Bohemian Club in honor of Dr. Braun-Menendez, by members of our Association and the Herzstein Committee of the University of California and Stanford University Medical Schools. Doctor Braun-Menendez is a famous physiologist from Argentina, whose researches on renal hypertension have achieved world-wide recognition.

The annual dinner meeting of the Association was held at the Bohemian Club on January 9, 1943, honoring

† CALIFORNIA AND WESTERN MEDICINE does not hold itself responsible for views expressed in articles or letters when signed by the author.

the consular representatives of Latin America and visiting Latin American physicians and students. The Association received a great tribute in the fact that all the Latin American consuls were present, excepting two, who could not attend on account of illness. Many Latin American physicians were in attendance. . . .

Dr. Francis Scott Smyth, Dean of the University of California Medical School, gave a most instructive and interesting address on "Inter-American Medical Relations." Sr. Juan José Martínez Lacayo, Dean of the Latin American Consular Corps, spoke in Spanish on the whole-hearted collaboration of the Latin American consuls with the officers of the Pan American Medical Association. The Honorable Annibal de Saboia Lima, Consul General of Brazil, expressed the appreciation of his country for the assistance of American physicians in combating infectious diseases in Brazil. The Honorable Sr. Fernando Berckemeyer, Consul General of Peru, and the Honorable Martín Luis Drago, Consul General of Argentina, voiced their recognition of the catholic work that the members of the medical profession are doing towards alleviation of human suffering in the western hemisphere.

Dr. Joseph Jordan Eller, Director General of the Association, has informed us that the Eighth Congress of the Association will be held at the Hotel Waldorf-Astoria in New York in September. The Congress will be devoted entirely to war medical problems with the idea of consolidating our medical efforts on a hemispherical basis. All branches of medicine and surgery will be represented and the most representative physicians from South America and Central America, as well as North America, will be present. The Congress will devote one or two days to the problems of the physicians in the Armed Services. Such subjects as: contagious diseases, treatment of burns, blood banks, sulfa drug therapy, traumatic and plastic surgery, together with dental problems, will be included in the program.

The chapter has 120 active members residing in central California. Of these, fourteen are in active service in the armed forces of our country. . . .

SALVATORE P. LUCIA, M. D., *Secretary*.

Concerning Medical Supplies to Soviet Russia:

(COPY)

RUSSIAN WAR RELIEF, INC.

*Registered with President's War Relief Control Board
No. 547*

San Francisco, April 28, 1943.

To the Editor:—Through Russian War Relief there is now being organized in every State of the Union a specific and concrete method for the attainment of that unity and understanding between our Allies which is a prerequisite for victory.

Americans, through our organization, have sent invaluable aid to the fighting forces and the people of the Soviet Union. Over 70 per cent of this aid has been in the form of medical supplies. Now, as part of a tribute to Russia Celebration during May and June, we are asking for five million or more Americans to write a personal letter to a Soviet citizen. This plan was suggested by receipt in headquarters and by our contributors receiving hundreds of letters from Soviet citizens who have received clothing, food, medicines and other supplies contributed by Americans. These letters thanked the contributors, then in almost every case said: "I wish you would write to me."

Will you help in this National effort by publishing this letter in your Journal? It is an invitation to every doctor

to send a letter to Russian War Relief, 422 Sutter Street, San Francisco. Each letter will be given to a doctor in Russia and will be translated by committees, teachers or a friend.

Yours very truly,
PHILLIPS DAVIES, *Chairman*,
Tribute to Russia Celebration
For Northern California Division.

422 Sutter Street.

Concerning a Fake Solicitor (Health and Accident Policies):

(COPY)

Visalia, California, April 12, 1943.

To the Editor:—A man by the name of C. A. Kelley is soliciting the doctors with what he claims is a non-cancellable health and accident policy issued by the Income Guaranty Co., of South Bend, Indiana. The reason I write you is that he claims the company to be a subsidiary of Medical Protective of Fort Wayne, Indiana. He was so glib that I became suspicious and wrote Medical Protective.

I am advised that there is no connection whatsoever between the companies and that this individual has done this before. I thought it might be wise to report this to you so that it might be given publicity in CALIFORNIA AND WESTERN MEDICINE to protect others who might be tempted to buy.

Margaret joins me in sending best wishes.

Sincerely yours,

GEORGE F. KEIPER.

Concerning Physicians' Gasoline Allowance:

Following are excerpts from a letter addressed to the San Francisco County Medical Society by Legal Counsel Hartley F. Peart:

"We have received several inquiries from members of the Society as to what use they may make of additional gasoline allowed by their 'C' ration books.

"Under the regulations issued by the OPA, the preferred mileage allowed to physicians is limited to that necessary in making professional calls upon patients and the physician is not even permitted to use gasoline allowed by his 'C' book to attend medical conventions or meetings of the profession.

"In this connection, you may wish to call the attention of the members of the Society to the following requirements of the applicable regulations:

"Travel by physician between home and office. Although a physician is not entitled to preferred mileage for travel between his home and office merely to keep office hours and to treat patients, he may be allowed preferred mileage for professional calls even though travel on such calls require occasional visits to his office to pick up equipment or to obtain directions and information necessary to make such calls.

"Travel by physicians, surgeons, etc., for conferences, conventions or courses of study. Travel to or from conferences or conventions or in attending courses of study may not be included in preferred mileage, even though such activities may better equip such persons to carry on their professional work.

"Travel by supervisors and agency heads. Mileage driven by supervisors and agency heads who direct the work of physicians and surgeons may not be allowed as preferred mileage since such travel is not for making necessary professional calls, nor is it travel between offices maintained by them."